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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHANTILAL HIRJI MODHA, MARY ELIZABETH KISTER,
and KC NGUYEN

Appeal 2009-013698
Application 10/733,155
Technology Center 1700

Decided: March 26, 2010

Before EDWARD C. KIMLIN, ADRIENE LEPIANE HANLON, and
PETER F. KRATZ, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 77-91, 94-109, and 112-115. Claim 77 is illustrative:

77. A method for forming an elastomeric glove, the method comprising:

dipping a hand-shaped former into at least one bath containing an elastomeric material to form a substrate body, the substrate body having an inner surface and an outer surface that define a hand-shaped cavity, the inner surface being positioned adjacent to the hand-shaped former;

applying a hydrogel coating to the outer surface of the substrate body while the inner surface of the substrate body remains adjacent to the hand-shaped former, wherein the hydrogel coating has a thickness of from about 0.1 to about 20 micrometers;

applying a lubricant coating to the hydrogel-coated substrate body while the inner surface of the substrate body remains adjacent to the hand-shaped former, wherein the lubricant coating comprises a silicone emulsion;

chlorinating the glove; and

thereafter, stripping the glove from the hand-shaped former without the use of an antiblocking powder, wherein the glove is inverted so that the outer surface of the substrate body applied with the hydrogel coating is configured to face a user's hand when inserted into the hand-shaped cavity.

The Examiner relies upon the following references as evidence of obviousness:

Agostinelli	3,740,262	Jun. 19, 1973
Chen	5,284,607	Feb. 8, 1994
Holguin	2003/0100694 A1	May 29, 2003
Teoh	WO 02/32475 A2	Apr. 25, 2002

Appellants' claimed invention is directed to a method for forming an elastomeric glove. The method entails dipping a hand-shaped former into a bath of the elastomeric material, applying a hydrogel coating to the outer surface of the formed elastomer, applying a lubricant of a silicone emulsion

to the hydrogel coating, chlorinating the glove, and then stripping the formed glove from the former such that the surfaces of the glove are inverted.

Appealed claims 77-84, 88-91, 94-102, 106-109 and 112-115 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Teoh in view of Chen and Agostinelli. Claims 85-87 and 103-105 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the stated combination of references further in view of Holguin.

Independent claims 77 and 98 are argued together as a group. We focus on claim 77 as representative. Regarding the dependent claims on appeal, Appellants submit that “it is believed that some or all of these claims may possess features that are independently patentable, regardless of the patentability of the independent claim” (Prin. Br. 18, third para.). However, Appellants have not presented a separate, substantive argument for a particular claim on appeal. Accordingly, all the appealed claims stand or fall together with claim 77.

We have thoroughly reviewed each of Appellants’ arguments for patentability. However, we are in complete agreement with the Examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the Examiner’s rejections for essentially those reasons expressed in the Answer, and we add the following primarily for emphasis.

There is no dispute that Teoh, like Appellants, discloses a method for forming an elastomeric glove comprising dipping a hand-shaped former into a bath containing an elastomeric material to form a substrate body, applying a hydrogel coating to the outer surface of the substrate body, applying a

lubricant coating to the hydrogel-coated substrate body, and stripping the glove from the hand-shaped former such that the glove is inverted. While Teoh teaches that the lubricant coating may be a physiologically acceptable surfactant, such as a solution of silicone, the reference does not expressly teach that the surfactant is the claimed silicone emulsion. Also, although Teoh evidences that it was known in the art to chlorinate a glove of synthetic rubber, the process of Teoh avoids such chlorination. However, we totally concur with the Examiner that these argued differences over Teoh would have been obvious to one of ordinary skill in the art.

We agree with the Examiner that Chen evidences the obviousness of applying a lubricant to an elastomeric glove in the form of a silicone emulsion, and that such emulsions are a convenient way to apply a silicone lubricant to a surface. While Appellants emphasize the differences between Teoh and Chen with respect to forming an elastomeric glove, Appellants' argument misses the thrust of the Examiner's rejection. In particular, Appellants present no argument for why it would have been nonobvious for one of ordinary skill in the art to apply the silicone coating of Teoh in the form of a solution or an emulsion. We are satisfied that one of ordinary skill in the art would not have considered Teoh's disclosure of applying a lubricating surfactant to the hydrogel coating as being limited to a silicone solution, to the exclusion of a silicone emulsion or other known lubricating compositions.

We are also not persuaded by Appellants' argument that Teoh's avoidance of a chlorinating step would have rendered the claimed chlorinating step nonobvious to one of ordinary skill in the art. To be sure, Teoh discusses the disadvantages of chlorinating an elastomeric glove to

reduce its tackiness, namely, the chlorination “is both expensive and can potentially have deleterious effects on the properties of the finished glove” (page 2, first para.). Teoh also states that while “providing an initial reduction in the level of tack, chlorination (and halogenation generally) may not prevent the development of tack over the medium to long term” (page 2, second para.).

However, notwithstanding the potential disadvantages of chlorination, Teoh characterizes chlorination as a conventional method to render elastomeric materials non-tacky (col. 3, second para.), and Chen provides additional evidence that such a chlorination step was known in the art. Accordingly, based on the state of the prior art, we must agree with the Examiner that it would have been hardly nonobvious for one of ordinary skill in the art to employ a conventional technique, such as chlorination, to render an elastomeric glove non-tacky. It is well settled that it is a matter of obviousness for one of ordinary skill in the art to eliminate a feature of the prior art along with its attendant advantage and, similarly, it is a matter of obviousness for one of ordinary skill in the art to use a known process or technique and experience the known disadvantages thereof. *See in re Kuhle*, 526 F.2d 553, 555 (CCPA 1975); *In re Marzocchi*, 456 F.2d 790, 793 (CCPA 1972); *In re Larson*, 340 F.2d 965, 969 (CCPA 1965); *In re Porter*, 68 F.2d 971, 973 (CCPA 1934).

In the present case, Appellants have presented no argument, let alone the requisite objective evidence, that they do not experience the known disadvantages of employing a chlorination step. In addition, Appellants have not rebutted the Examiner’s reasoning that Teoh teaches that additional measures for reducing tack may be necessary in addition to the inclusion of

anti-tack agents in the elastomeric composition, such as increasing the degree of cure of the glove or applying additional anti-tack agents in a separate washing step, and, therefore, it would have been obvious for one of ordinary skill in the art to utilize the known chlorination step for providing additional tack to the glove.

As for chlorinating the glove before it is removed from the former, we agree with the Examiner that Agostinelli establishes that this was a known way of chlorinating an elastomeric glove. Appellants' argument against citing Agostinelli uses the discredited logic of requiring all the features of one reference to be bodily incorporated into another for a finding of obviousness. *See in re Griver*, 354 F.2d 377, 381 (CCPA 1966); *In re Billingsley*, 279 F.2d 689, 691 (CCPA 1960). In our view, it would have been obvious for one of ordinary skill in the art to use chlorination to tackify the elastomeric glove of Teoh either before or after it is removed from the former, and Agostinelli simply evidences that it was known in the art to perform the chlorination step with the glove on the former.

Appellants do not present a separate, substantive argument against the § 103 rejection of claims 85-87 and 103-105 over the additional citation of Holguin (See page 18 of Prin. Br.).

As a final point, we note that Appellants base no argument upon objective evidence of nonobviousness, such as unexpected results.

In conclusion, based on the foregoing and the reasons well stated by the Examiner, the Examiner's decision rejecting the appealed claims is affirmed.

Appeal 2009-013698
Application 10/733,155

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

kmm

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